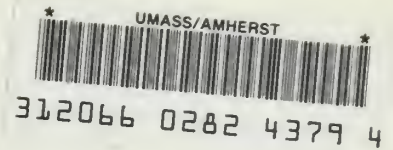




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MOTOR VEHICLE HOMICIDE:
THE OFFENSE AND THE OFFENDERS

GOVERNMENT DOCUMENT
COLLECTION

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Lou Ann Enos
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February 10, 1986

ABSTRACT

In 1982, the Massachusetts legislature enacted Chapter 373 of the Acts of 1982. This enactment addressed the issue of Driving Under the Influence of Alcohol. As a result, the offense of motor vehicle homicide (MGL, Chapter 90, Section 24G) was amended to classify the offense as a felony when alcohol impairment, coupled with operating to endanger resulted in the death of another.

Almost 95% of the offenders in this study were charged with the misdemeanor offense of motor vehicle homicide. Slightly more than 5% were charged with the felony classification.

Over 80% of offenders studied were ultimately found guilty. Fifty-three percent of the offenders found guilty were incarcerated. The remaining 47% received a disposition to be served in the community. The median length of incarceration was over two years.

Other findings of those charged with motor vehicle homicide include:

1) 60% of the offenders were between the ages of 17 and 24; 2) more than one-third had been charged with at least one major motor vehicle offense prior to committing motor vehicle homicide; 3) almost 50% were previously charged with driving under the influence of alcohol or operating to endanger—two key elements related to the offense of motor vehicle homicide; and 4) In addition to the motor vehicle homicide case, over 72% were simultaneously charged with operating to endanger while slightly more than 43% were simultaneously charged with driving under the influence of alcohol.

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I. INTRODUCTION

Over the past five years, motor vehicle fatalities have been a very serious problem in Massachusetts as well as in the entire nation. As a result of fatal motor vehicle accidents, an important question arises: Who is responsible and what happens to these operators who are at fault? In many cases, the operators are charged with motor vehicle homicide, in other cases they are not.

The Commonwealth of Massachusetts responded to the high incidence of Driving Under the Influence by enacting legislation (Chapter 373 of the Acts of 1982) in September of 1982. This legislation made motor vehicle homicide a felony when both intoxication and negligence were involved.

The purpose of this study is to profile 189 individuals charged with motor vehicle homicide in Massachusetts and to outline what happens to them within the judicial system. This report examines the offenders' personal characteristics as well as simultaneous offenses, judicial findings, dispositional patterns and prior charges/convictions for various motor vehicle offenses.

II. LITERATURE REVIEW

The Fifth Edition of Black's Law Dictionary defines "vehicular homicide" as:

the killing of a human being by the operation of an automobile, airplane, motor boat, or other motor vehicle in a manner which creates an unreasonable risk of injury to the person or property of another and which constitutes a material deviation from the standard of care which a reasonable person would observe under the same circumstances (Black, 1979:661).

For the purposes of this study, the terms "vehicular homicide" and "motor vehicle homicide" will be synonymous, and they will only constitute those fatal accidents committed with automobiles.

Under Massachusetts General Laws (MGL), Chapter 90, Section 24G, motor vehicle homicide is classified as both a felony and a misdemeanor, depending upon the circumstances. The felony classification charges an operator with motor vehicle homicide while under the influence of an intoxicating substance. The offense was introduced as a felony in September of 1982, when the Massachusetts Legislature enacted Chapter 373 of the Acts of 1982. This chapter relates to the offense of Driving Under the Influence of Liquor (DUIL) and was established as a result of an extensive public outcry over "rising incidents of drunk driving arrests, accidents and fatalities" (Brown et al , 1984:1).

In order to be convicted of the felony charge of motor vehicle homicide, the judicial system must satisfy three prongs of the offense—beyond a reasonable doubt. They are: 1) the operator of the motor vehicle was under the influence of an intoxicating substance; 2) the motor vehicle was operated recklessly, so as to endanger the lives of others, and 3) by such operation, caused the death of another person (MGL, Chapter 90, Section 24Ga). Punishment for the felony conviction of motor vehicle homicide, as stated in MGL, depending on the discretion of the presiding justice, may be either A) imprisonment in the state prison for not less than two and one-half years nor more than 10 years and a fine of five thousand dollars, or, B) imprisonment in a jail or house of correction for not less than one year nor more than two and one-half years and a fine of five thousand dollars. The law also states that if the case is classified as a felony, it may not be continued without a finding or placed on file. (These terms are operationally defined in the methodology section).

The Massachusetts Registry of Motor Vehicles states that felony convictions for motor vehicle homicide can result in the revocation of the offender's license for up to ten years.

Under MGL, Chapter 90, Section 24Gb, the misdemeanor classification charges an operator with motor vehicle homicide. This subsection of the law states that in order to be convicted of the misdemeanor charge of motor vehicle homicide the judicial system must prove—beyond a reasonable doubt, that the operator either 1) was under the influence of an intoxicating substance, OR 2) had operated the motor vehicle as to endanger the lives of others, and 3) by such operation caused the death of another person. The punishment for conviction

of the misdemeanor classification of motor vehicle homicide, according to MGL, Chapter 90, Section 24Gb, is A) imprisonment in a jail or house of correction for not less than thirty days nor more than two and one-half years, or B) a fine of not less than three hundred nor more than three thousand dollars, or both. The Registry of Motor Vehicles states that conviction of the misdemeanor classification of motor vehicle homicide can result in the revocation of one's license for up to six months.

The Massachusetts Appeals Court, in its 1984 decision of The Commonwealth v. Drew (417 N.E. 2d. 53), stated that motor vehicle homicide is:

an offense" which both necessarily and exclusively encompasses "operation of control" of a motor vehicle, and is an offense which is aimed at regulating the manner in which automobiles are operated on a public way (MGL, Chapter 90, Section 24G).

There has been very little research conducted on the specific offense and offender of motor vehicle homicide. There is, however, an abundance of literature available regarding motor vehicle fatalities including numerous court and legislative rulings on vehicular homicide cases. The literature has been categorized in three areas—general, legal, and anecdotal.

A. GENERAL MOTOR VEHICLE FATALITY INFORMATION

In this section, as inferred throughout this review, motor vehicle homicide is often addressed via drunk driving statutes. In a recent issue of the Boston Globe, columnist Mike Barnicle addressed the issue of motor vehicle homicide in an article entitled, "We Know Not What to Do." Candy Lightner, original founder of Mothers Against Drunk Drivers (M.A.D.D.), believes that drunk driving is the root of many fatal motor vehicle accidents and that it "kills more than murderers and does more damage than robbers, burglars, and forgers all added together" (Lightner, 1984:38).

The National Safety Council (NSC) estimated that 44,400 people were killed on the nation's roads in 1983. In 1984, the Council estimated that 45,800 people died on the nation's roads, a 3% increase from 1983 (Carraro, 1984:21).

It is important to note at this point that the statistics about motor vehicle fatalities may vary from study to study because of differences in data collection techniques. According to the National Safety Council, "NSC data is not comparable to the National Highway Safety Administration (NHTSA) statistics because the NHTSA only collects data from 'traffic fatalities that occur within 30 days of the accident'" (Carraro, 1985:21). On the other hand, the NSC, in accordance with the American National Standards Institute "includes traffic and non-traffic deaths that occur ninety days of the accident" (Carraro, 1985:21). Similarly, the Massachusetts Registry of Motor Vehicles reports that the number of motor vehicle fatalities for a certain period are constantly being adjusted for missing, incomplete, or inaccurate information, as there are no recognized formal recording procedures. The Registry arrives at their conclusions by sorting through police and coroner reports.

According to Consumer Reports' interpretation of 1983 nationwide motor vehicle fatality statistics, "close to 50% of all the on-the-road fatalities resulted from accidents related to alcohol" (Consumer Reports, 1985:665). Additionally, they found that for every arrest for driving under the influence of alcohol, approximately 500-2000 drunk drivers go unapprehended (Consumer Reports, 1985:665). The New Mexico Transportation Department revealed that in 1983, "drivers in the 20-24 age bracket had by far the highest conviction and alcohol-related accident rates of any age bracket" (Traffic Safety, 1985:14). They also discovered that "males between the ages of 20 and 24 were involved in 14 times as many alcohol-related fatal accidents than their female counterparts" (Traffic Safety, 1985:15). Similarly, a 1983 nationwide study found that alcohol was a factor in 42% of motor vehicle fatalities. Thirty-three percent of those drivers were between the ages of 16 and 24 (Crime Control Digest, 1985:9).

According to the Registry of Motor Vehicles' 1983 statistics, 26% of all the fatal motor vehicle accidents were alcohol-related, and 51% of these offenders were between the ages of 16 and 24. In 1984, while the number of fatal accidents in Massachusetts fell, the number of alcohol-related motor vehicle fatalities rose to 37%. They also reported that 54% of all those drivers were between the ages of 15 and 24 (MA. RMV, 1983:84).

Since alcohol impairment is referred to and inferred in many motor vehicle fatality reports, the authors of this paper would like to address the topic. A 1984, Department of Transportation report states that there are several ways to determine alcohol impairment. The first and most significant way to determine impairment is to examine the Blood Alcohol Concentration (BAC) level of the operator. A BAC level of .10 is considered to be the legal definition of "intoxicated" (U.S. Department of Transportation, 1984:3-10). The second manner in which alcohol impairment is determined is through the use of police reports. The reports usually include a section for the officer to check off whether or not the operator had "been drinking" or was "impaired by alcohol" at the time of his/her accident (U.S. Department of Transportation, 1983:3-9). A third and final indicator of alcohol impairment is an actual complaint cited against the operator for driving under the influence (U.S. Department of Transportation, 1984:3-9).

Besides alcohol, there are other factors that may be correlated with motor vehicle fatalities. The National Safety Council reported that 57% of all the reported fatal accidents in 1984 were cited to have been caused by improper driving—that is, speeding, failure to yield, failure to stop at a stop sign, and disregard for signals (Traffic Safety, 1985:13).

The Kentucky Department of Public Safety reports that environmental factors also play a role in motor vehicle fatalities. The most common environmental factors are slippery roads and construction sites (Traffic Safety, 1985:13).

Over the years, legal ramifications have been developed to address the operators of motor vehicle fatalities. Laws are constantly being challenged and updated. The next section addresses legal issues that are associated with motor vehicle fatalities and homicides.

B. LEGAL ISSUES

Over the past decade, motor vehicle homicide has prompted important legal concerns on both national and international fronts. For example, many important cases have addressed whether or not motor vehicle homicide committed by those under the influence of alcohol constitutes criminal negligence per se.

Cases that address issues of presumed negligence in intoxicated operators include the 1977 Louisiana case, State v. Williams, 353 So. 2d. 152, (Criminal Law Digest, 1982:39); the 1985 Massachusetts case, Commonwealth v. Campbell (394 Mass. 77); the New Hampshire case State v. Wong, N.H. Sup Ct. No. 83-358, (Criminal Law Reporter, 1984-5:2142); and the 1984 British case, R. v. Griffiths (Rupert) (Criminal Law Review, 1984:628).

Other cases have addressed the validity of convictions for reckless motor vehicle homicide. These cases include the 1969 Florida case, Tegethoff v. State (Criminal Law Digest, 1978:26); the 1977 Illinois case, People v. Chiappa (Criminal Law Digest, 1982:40) and the British case, R. v. Rowcroft (Criminal Law Review, 1984:431). While these legal cases shed some light on constitutional issues related to Motor Vehicle Homicide, they add little insight into the backgrounds of the offenders who commit this serious crime.

Media coverage of families who lost loved ones and of those operators involved in motor vehicle accidents are very important denominators for public awareness and legislative review. The next section addresses anecdotal articles that are associated with motor vehicle fatalities and homicides.

C. ANECDOTAL ARTICLES

Local newspapers, including the Boston Globe, use their resources to dramatize motor vehicle fatalities and those operators involved. Many cases make the headlines while others are only reported in brief articles. A case examined in the Boston Globe (October 30, 1984) stated that a Massachusetts resident was found guilty of motor vehicle homicide and sentenced to 9-10 years in the Massachusetts Correctional Institute at Cedar Junction. Besides motor vehicle homicide, this offender was charged and convicted of driving under the influence, leaving the scene of personal injury and operating to endanger. In another Globe article (May 16, 1985), a Massachusetts resident was found guilty of four counts of vehicular homicide and one count of operating to endanger. He was sentenced to 90 days in jail. The accident occurred when the car he was driving struck a tree broadside and killed all four passengers. Police reports indicate that the operator had been speeding at the time. Other contributing factors that related to the accident included inclement weather (drizzle) and three balding tires on the car.

Other recent cases that made headlines in the Globe include: "Drunk Driver Gets 5-10 years in '82 Death" (September 15, 1984) "Driver Gets Year in Double Fatality" (August 19, 1984); "Crash Shatters a Family Bond" (February 22, 1985) and "Free After A Year in Driving Deaths of Two" (December 5, 1984).

Throughout this literature review, much of the available literature regarding motor vehicle homicide was either anecdotal, or it was addressed through alcohol reforms and judicial proceedings. Therefore, in light of the lack of literature on motor vehicle homicide, this study provides some important new baseline data on the offender and the offense.

III. METHODOLOGY

The motor vehicle homicide study is based on the records of 189 motor vehicle homicide cases received at the Probation Central File for the period May 1984 to September 1985. The Probation Central File, located at the Office of the Commissioner of Probation in Boston is unique in that it holds statewide criminal records dating back to 1924 and currently maintains over six million records in its files. It is from this central file that criminal records of 189 offenders charged with motor vehicle homicide were drawn.

Massachusetts General Laws, Chapter 90, Section 24G, define motor vehicle homicide as "operating a motor vehicle recklessly or negligently so that the lives or the safety of the public might be endangered," and/or "while under the influence of intoxicating liquor, or of marijuana, narcotic drugs, depressants, or stimulant substances, and by such operation causes the death of another person." In Massachusetts, motor vehicle homicide can be charged as a felony or as a misdemeanor.

Conviction of the felony charge can result in the following:

Imprisonment in the state prison for not less than two and one-half years or more than ten years and a fine of not more than five thousand dollars.

Conviction of the misdemeanor charge can result in the following:

Imprisonment in a jail or house of correction for not less than thirty days nor more than two and one-half years.

or

A fine of not less than three hundred dollars nor more than three thousand dollars. Or both.

The terms used throughout this report are operationally defined as follows:

CONVICTION: Cases for which a finding of guilty resulted in incarceration, a suspended sentence, probation, cases which were filed, and cases in which a fine was imposed as penalty.

DISPOSITION: The sentencing or other final settlement of a case.

FINDING: The result of the deliberations of a judge or a jury.

INCARCERATION: Includes sentences to Houses of Correction, Massachusetts Correctional Institutions, or county jails.

MAJOR MOTOR VEHICLE OFFENSE: See Appendix A

NOLLE PROSSE: A formal entry on the record by the prosecuting officer by which s/he declares that the case will not be prosecuted further.

PENDING: Cases for which a person was on default or the case had not yet reached a disposition as of 1/16/86.

SPLIT SENTENCE: A sentence by which the offender is incarcerated for a specific period of time and the balance of the sentence is suspended, usually with a period of probation to be served.

SUSPENDED SENTENCE: A sentence imposed by the court but not actually meant to be served except upon violation of other terms of the sentence, usually probation.

TIME TO DISPOSITION: The length of time between the initial arraignment and final disposition of the case.

IV. RESEARCH FINDINGS

1. Sex of Defendants

Among the study's 189 offenders charged with motor vehicle homicide, 91.5% (n=173) were male and 8.5% (n=16) were female. These findings are consistent with other Office of the Commissioner of Probation reports. For example, compared to the 1979 study, "Driving Under the Influence of Liquor — Analysis by Age, Sex and Simultaneous Offenses," 91.75% were male and the remaining 8.25% female.

TABLE 1: SEX OF OFFENDER

<u>SEX</u>	<u>NUMBER</u>	<u>PERCENT</u>
MALE	173	91.5%
FEMALE	16	8.5%
	<hr/>	<hr/>
TOTAL	189	100.0%

2. Age at Arraignment

The age of the offender at the time he/she was arraigned in court for the charge of motor vehicle homicide, is examined in Table 2. The offenders ranged in age from 17 to 69 years. The median age was 23 years.

The highest frequency of offenders charged with motor vehicle homicide were between the ages of 17 and 24. They accounted for three-fifths of the sample. Another fifth was comprised of those offenders who fell between the 25 to 30 year age bracket.

TABLE 2: AGE AT ARRAIGNMENT

<u>AGE</u>	<u>NUMBER</u>	<u>PERCENT</u>
17 TO 20 YEARS	64	33.9%
21 TO 24 YEARS	51	27.0%
25 TO 30 YEARS	38	20.1%
31 TO 36 YEARS	8	4.2%
37 TO 48 YEARS	18	9.5%
49 AND OLDER	10	5.3%
	<hr/>	<hr/>
TOTAL	189	100.0%

3. ORIGINAL COURT OF ARRAIGNMENT

Table 3 examines the distribution of motor vehicle homicide offenses throughout the Commonwealth of Massachusetts by the county of arraignment. The largest number of motor vehicle homicide offenses originated in Middlesex (n=38, 20.12%) and Norfolk (n=30, 15.9%) counties. Over 75% of the cases in this study originated in Eastern Massachusetts (Essex, Middlesex, Suffolk, Norfolk, Bristol, Plymouth, and Barnstable counties).

In Worcester county, Worcester District Court accounted for more than half of that county's motor vehicle homicide arraignments (n=12). Accounting for over half of the motor vehicle homicide arraignments in Plymouth county was Wareham District court (n=8). Nearly 79% of the motor vehicle homicide arraignments reported in Essex county were from three District courts: Peabody (n=5), Lynn (n=3), and Lawrence (n=3). Three courts in Norfolk county were responsible for more than 83% of that county's motor vehicle homicide arraignments: Quincy (N=13), Wrentham (n=7), and Stoughton (n=5). Quincy District court, alone was responsible for over 43% of all reported arraignments in Norfolk county, and also for the largest number of motor vehicle homicide arraignments for any one court in the Commonwealth of Massachusetts.

4. COURT OF FINAL DISPOSITION

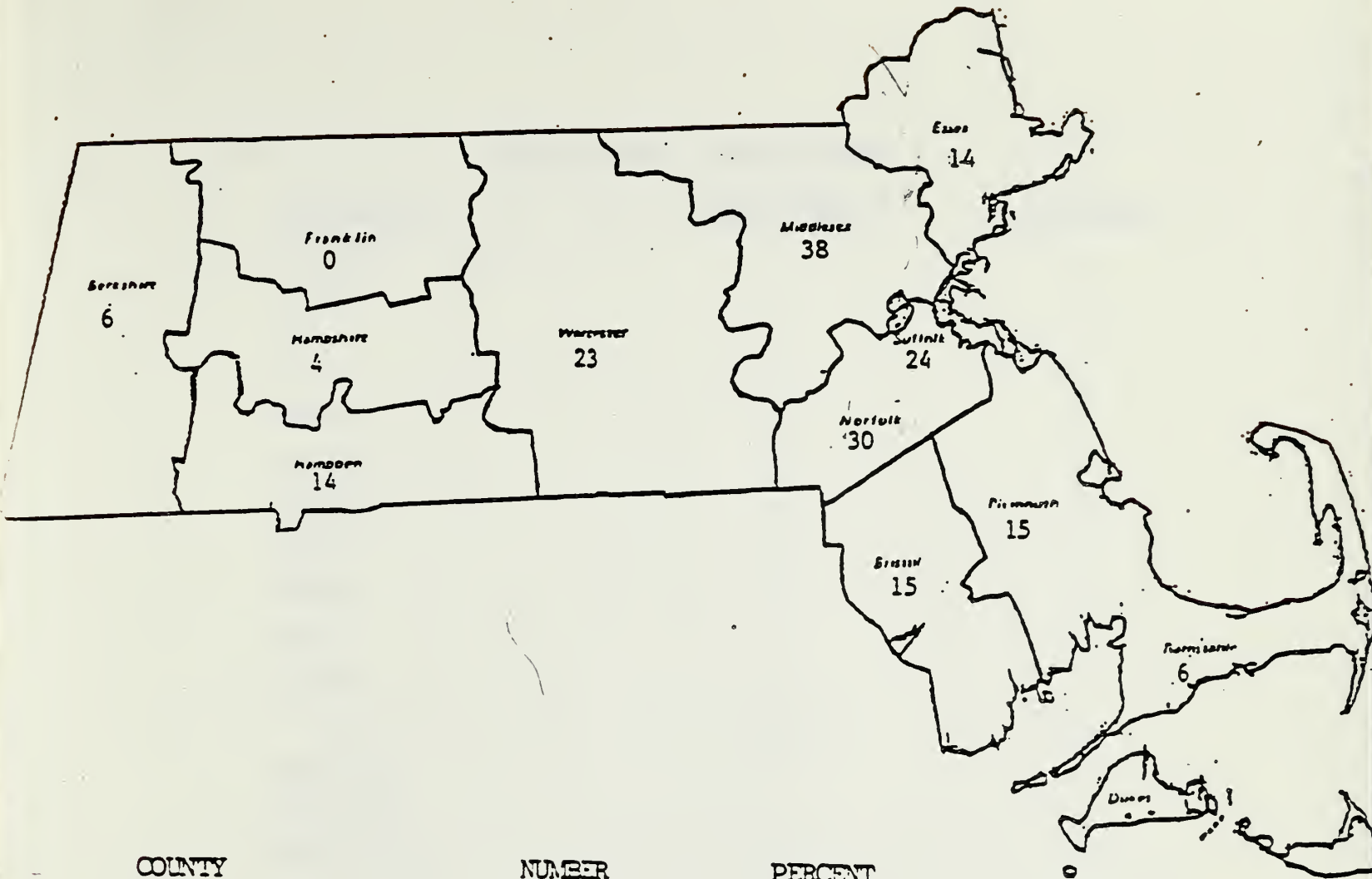
Table 4 examines the change in case distribution from the court of the original motor vehicle homicide arraignment to the court of final disposition. In our study, there were primarily two reasons why a case would be transferred from one court to another. In the case of an appeal, the case would be transferred to a jury of six court, and 2) in some counties, the motor vehicle homicide charge would be automatically dismissed, and recharged in the Superior Court of that county.

If a case is appealed in a District court, it would be transferred to a jury of six court. Such a court uses a six person jury rather than the usual twelve person jury. The jury trial can be waived by the defendant at any time until the verdict is reached. In our study, 15 cases were appealed to a jury of six court.

In several counties, the Superior Court disposed of a significant portion of that county's motor vehicle homicide cases, indicating a higher than average "appeal" or "boundover" rate. In Middlesex county, of the 35 cases that originated in district court, over 37% (n=13) reached a final disposition in Middlesex Superior Court. In Suffolk County, 26% (n=6) of the 23 cases that originated in district court were disposed of in Suffolk Superior Court. Barnstable, and Norfolk Superior Courts did not hear any motor vehicle homicide cases from our study.

5. ORIGINAL CHARGE

The original charge in all of the cases in our study was motor vehicle homicide. However, under Massachusetts law there exists two distinct classes for this charge. One is a felony, the other a misdemeanor. The felony charge requires evidence of reckless, negligent or endangering operation coupled with operation under the influence of an intoxicating substance, which results in the death of another. The misdemeanor charge requires evidence of reckless, negligent, or endangering operation, or operation under the influence of an intoxicating substance. During the period of our study, 94.7% of the cases (n=179), were arraigned on the misdemeanor charge while the remaining 5.3%(n=10) were arraigned on the felony charge.



<u>COUNTY</u>	<u>NUMBER</u>	<u>PERCENT</u>
BARNSTABLE	6	3.2%
BERKSHIRE	6	3.2%
BRISTOL	15	7.9%
ESSEX	14	7.4%
HAMPDEN	14	7.4%
HAMPSHIRE	4	2.1%
MIDDLESEX	38	20.1%
NORFOLK	30	15.9%
PLYMOUTH	15	7.9%
SUFFOLK	24	12.7%
WORCESTER	23	12.2%
<hr/>		
TOTAL	189	100.0%

TABLE 4: COURT OF FINAL DISPOSITION

<u>SUPERIOR COURT</u>	<u>ORIGINAL NUMBER</u>	<u>FINAL NUMBER</u>
BARNSTABLE	0	0
BERKSHIRE	0	1
BRISTOL	1	4
ESSEX	0	2
FALMOUTH	2	6
FARMINGTON	0	0
MIDDLESEX	3	16
NORFOLK	0	0
PLYMOUTH	0	3
SUFFOLK	1	7
WORCESTER	0	1
TOTAL	7	40
<u>JURY OF SIX</u>		
BARNSTABLE	0	1
BOSTON MUNICIPAL	0	4
DEERHAM	0	3
FALL RIVER	0	1
FITCHBURG	0	1
HAVERTHILL	0	1
WATERTOWN	0	2
WORCESTER	0	2
TOTAL	0	15

TABLE 5: ORIGINAL CHARGE

<u>OFFENSE CLASSIFICATION</u>	<u>NUMBER</u>	<u>PERCENT</u>
MOTOR VEHICLE HOMICIDE—MISDEMEANOR	179	94.7%
MOTOR VEHICLE HOMICIDE—FELONY	10	5.3%
	189	100.0%

6. REDUCED CHARGE

For the purposes of this study, a reduced charge is defined as one in which the original charge of motor vehicle homicide was reduced to a lesser charge. In less than 4% (n=6) of the cases in this study were reduced. In three cases, the original charge of felony motor vehicle homicide was reduced to the misdemeanor version of motor vehicle homicide. In the remaining three cases, the charge was reduced to operating to endanger.

TABLE 6: REDUCED CHARGE

<u>REDUCED CHARGE</u>	<u>NUMBER</u>	<u>PERCENT</u>
MOTOR VEHICLE HOMICIDE	3	1.6%
OPERATING TO ENDANGER	3	1.6%
TOTAL	6	3.2%

7. NUMBER OF COUNTS OF MOTOR VEHICLE HOMICIDE

The number of motor vehicle homicide counts a person is charged with reflects the approximate number of fatalities that occurred as a result of the motor vehicle accident. In our study, the vast majority of offenders were arraigned on one count of motor vehicle homicide (82.5%, n=156). Slightly less than 14% of the offenders (n=25) were arraigned on 2 counts, and 3.2% were arraigned on 3 counts (n=6). One person was charged with four counts and another was charged with six.

TABLE 7: NUMBER OF COUNTS OF MOTOR VEHICLE HOMICIDE

<u>NUMBER OF COUNTS</u>	<u>NUMBER</u>	<u>PERCENT</u>
1	156	82.5%
2	25	13.2%
3	6	3.2%
4	1	0.5%
6	1	0.5%
TOTAL	189	100.0%

8. SIMULTANEOUS OFFENSE

Simultaneous offenses are those offenses that the offender has been charged in conjunction with the target offense, motor vehicle homicide. The vast majority of the offenders (82.5%, n=156), were charged with at least one simultaneous offense in addition to the motor vehicle homicide charge. Of these 156 offenders, there were a total of 312 simultaneous offenses with an average of 2 such offenses per offender. The most frequently charged simultaneous offense was operating to endanger. Over 72% of the offenders in our study were simultaneously charged with operating to endanger (72.4%, n=113). The second most frequently charged offense was driving under the influence of alcohol (43.6%, n=68). Speeding was charged in over 23% of the cases, and leaving the scene of personal injury accounted for 16% of the remaining simultaneous charges.

As mentioned above, over eighty percent of the defendants in our study were charged with a simultaneous offense. This is quite significant, particularly in light of the nature of these offenses: The majority of the simultaneous offenses were moving motor vehicle offenses involving carelessness, recklessness and negligence. In short, the charges reflect operation of a motor vehicle in a manner contrary both to the law and to the reasonable standard of conduct expected from the law-abiding citizen.

TABLE 8: SIMULTANEOUS OFFENSES

<u>SIMULTANEOUS OFFENSE</u>	<u>NUMBER</u>	<u>PERCENT</u>
OPERATING TO ENDANGER	113	72.4%
OPERATING UNDER THE INFLUENCE OF LIQUOR	68	43.6%
SPEEDING	37	23.7%
LEAVING THE SCENE OF PERSONAL INJURY	25	16.0%

9. JUDICIAL FINDINGS

Of 189 cases, findings were available for 165 offenders. Twenty-four cases were pending and therefore excluded from the analysis because there were no findings available. The findings were individually analyzed in categories of 1, 2, and 3 counts and the results are listed in Table 9.

The results of the cases with findings for count 1 were as follows: of 165 cases, 80.6% (n=133) were found guilty; 9.6% (n=16) were found not guilty, nolle prosequere, no probable cause or continued without a finding; 8.5% (n=14) were dismissed; one case resulted in a mistrial; and one case was continued with a finding.

The results of the cases with findings for count 2 were as follows: of 31 cases, 58.1% (n=18) were found guilty; 12.9% (n=4) were either nolle prosequere or continued without a finding. Twenty-nine percent (n=9) of the offenders cases were dismissed. Two cases were pending and therefore excluded from the analysis.

Cases with findings for count 3 resulted in the following data: of 6 cases, 66.7% (n=4) were found guilty and 33.7% (n=2) were either dismissed or nolle prosequere. Two cases were pending and therefore excluded from the analysis.

TABLE 9: FINDINGS FOR COUNTS 1, 2 AND 3

<u>DISPOSITION</u>	<u>COUNT 1</u>		<u>COUNT 2</u>		<u>COUNT 3</u>	
	<u>#</u>	<u>%</u>	<u>#</u>	<u>%</u>	<u>#</u>	<u>%</u>
GUILTY	133	80.6%	18	58.1%	4	66.7%
NOT GUILTY	6	3.6%	0	0.0%	0	0.0%
NOLLE PROSSE	6	3.6%	3	9.7%	1	0.0%
NO PROBABLE CAUSE	2	1.2%	0	0.0%	0	16.7%
CONT. W/O FINDING	2	1.2%	1	3.2%	0	0.0%
DISMISSED	14	8.5%	9	29.0%	1	16.7%
MISTRIAL	1	0.6%	0	0.0%	0	0.0%
CONT. W/FINDING	1	0.6%	0	0.0%	0	0.0%
TOTAL	165	100.0%	31	100.0%	6	100.0%
	24 CASES WERE PENDING		2 CASES WERE PENDING		2 CASES WERE PENDING	

10. TIME TO DISPOSITION

Time to disposition is measured from the arraignment date to the date of final disposition. Of 189 cases, information on time to disposition was available for 160 cases. Table 10 examines this data.

The most common time period, 2-6 months, involved 54.4% (n=87) of the offenders. Almost 18% (n=28) had cases disposed of in less than 1 month. Therefore, almost 72% (n=115) of the cases were disposed of within 6 months.

The 29 cases for which time to disposition was not available included cases that were pending, cases that were on appeal, and criminal records that were missing the date of final disposition.

TABLE 10: TIME TO DISPOSITION

<u>NUMBER OF MONTHS</u>	<u>NUMBER</u>	<u>PERCENT</u>	<u>CUMULATIVE PERCENT</u>
1 MONTH OR LESS	28	17.5%	17.5%
2-6 MONTHS	87	54.4%	71.9%
7-12 MONTHS	31	19.4%	91.3%
13-18 MONTHS	7	4.4%	95.7%
19-30 MONTHS	7	4.4%	100.0%
TOTAL	160	100.0%	100.0%

11. DISPOSITION

Table 11 examines the dispositions received by offenders convicted of motor vehicle homicide. Dispositions were available for a total of 133 convicted offenders:

Over fifty-three percent (n=71) of the convicted offenders received some form of incarceration, either through straight incarceration or through a split sentence.

The most common disposition was a split sentence. This disposition, which consisted of a period of incarceration and a period of probation, accounted for 28.6% (n=38) of the dispositions.

The remaining dispositions were as follows: 24.8% (n=33) were incarcerated; slightly over 17% (n=23) received probation; 3.0% (n=4) were fined; and almost 25% (n=33) received a suspended sentence. One offender's case was filed and another offender was placed in a community service program. A third offender's case was continued with a finding for a period of six years.

TABLE 11: DISPOSITIONS

<u>DISPOSITION</u>	<u>NUMBER</u>	<u>PERCENT</u>
INCARCERATION	33	24.8%
SPLIT SENTENCE	38	28.6%
PROBATION	23	17.3%
FINE	4	3.0%
COMMUNITY SERVICE	1	0.8%
SUSPENDED SENTENCE	33	24.8%
FILED	1	0.8%
TOTAL	133	100.0%

12. LENGTH OF DISPOSITION

A total of 129 offenders received dispositions ranging from 1 month to 20 years. Of the 133 convicted offenders, 4 people were fined and one person's case was filed. The remaining 129 offenders received time requirements which were separated into 13 categories. The median length of an offender's disposition was two years. These categories are illustrated in Table 12. The lengths of disposition for incarcerated and non-incarcerated offenders will be examined separately in sections 12A and 12B.

TABLE 12: LENGTH OF DISPOSITION

<u>MONTHS</u>	<u>NUMBER</u>	<u>PERCENT</u>	<u>CUMULATIVE PERCENT</u>
1-6 MONTHS	8	6.2%	6.2%
7-12 MONTHS	24	18.6%	24.8%
13-18 MONTHS	7	5.4%	30.2%
19-24 MONTHS	36	27.9%	58.1%
25-30 MONTHS	11	8.5%	66.7%
31-36 MONTHS	14	10.9%	77.5%
37-48 MONTHS	5	3.9%	81.4%
49-60 MONTHS	9	7.0%	88.4%
61-72 MONTHS	5	3.9%	92.2%
73-96 MONTHS	4	3.1%	95.3%
97-108 MONTHS	2	1.6%	96.9%
109-240 MONTHS	3	2.3%	99.2%
INDETERMINATE SENTENCE	1	0.8%	100.0%
TOTAL	129	100.0%	100.0%

12A Incarcerated Offenders

Of the 71 offenders who were incarcerated for motor vehicle homicide, 53.5% (n=38) of the offenders received a split sentence. The remaining offenders received straight incarceration dispositions. Because split sentences involve both incarceration and probation, their dispositional lengths are generally longer than those of straight incarceration and will therefore be examined separately. This does not mean, however, that split sentences involve longer prison terms.

Of the 38 offenders receiving split sentences, 86.6% (n=33) had dispositions of 24 months or more. One offender received a split sentence disposition of 10 years. The median length of split sentence dispositions was 34 months, or 2 years and 10 months.

The median length of disposition for the 33 straight incarcerated offenders was 24 months, or 2 years. Almost 52% (n=17) of the offenders were incarcerated for 2 years or more. Slightly more than 39% (n=13) of the offenders received dispositions of one year or less. Two offenders simultaneously charged with manslaughter received ten and twenty year sentences.

In this study, one convicted offender received an indeterminate sentence. According to Black's Law Dictionary, an "indeterminate sentence" is, "a sentence to imprisonment for the maximum period defined by law, subject to termination by the parole board or other agency at any time after service of the minimum period". (Black, 1979: 694).

TABLE 12A: LENGTH OF DISPOSITION FOR INCARCERATED OFFENDERS

<u>MONTHS</u>	<u>#</u> <u>STRAIGHT</u> <u>INCARCERATION</u>	<u>#</u> <u>SPLIT</u> <u>SENTENCE</u>	<u>TOTAL</u> <u>PERCENT</u>	<u>TOTAL</u> <u>CUMULATIVE</u> <u>PERCENT</u>
1-6 MONTHS	5	1	8.5%	8.5%
7-12 MONTHS	8	1	12.7%	21.1%
13-18 MONTHS	2	1	4.2%	25.4%
19-24 MONTHS	4*	10**	19.7%	45.1%
25-30 MONTHS	4	5	12.7%	57.7%
31-36 MONTHS	0	8	11.3%	69.0%
37-48 MONTHS	0	3	4.2%	73.2%
49-60 MONTHS	1	5	8.5%	81.7%
61-72 MONTHS	1	2	4.2%	85.9%
73-96 MONTHS	3	1	5.6%	91.5%
97-108 MONTHS	2	0	2.8%	94.4%
109-240 MONTHS	2	1	4.2%	98.6%
INDETERMINATE SENTENCE	1	0	1.4%	100.0%
<u>TOTAL</u>	<u>71</u>		<u>100.0%</u>	<u>100.0%</u>

* FOUR OFFENDERS RECEIVED 24 MONTHS OF STRAIGHT INCARCERATION

** EIGHT OFFENDERS RECEIVED A 24 MONTH SPLIT SENTENCE

12B Non-incarcerated Offenders

There were 57 offenders who received dispositions to be served in the community. These dispositions included: probation, suspended sentences, and community service. The amount of time served under community supervision ranged from 3 months to 72 months. Over 75% (n=43) of the offenders were supervised for two years or less.

The median length of disposition for these offenders was 24 months or 2 years.

TABLE 12B: LENGTH OF DISPOSITION FOR NON-INCARCERATED OFFENDERS

<u>MONTHS</u>	<u>NUMBER</u>	<u>PERCENT</u>	<u>CUMULATIVE PERCENT</u>
1-6 MONTHS	2	3.5%	3.5%
7-12 MONTHS	15	26.3%	29.8%
13-18 MONTHS	4	7.0%	36.8%
19-24 MONTHS	22	38.6%	75.4%
25-30 MONTHS	2	3.5%	78.9%
31-36 MONTHS	6	10.5%	89.4%
37-48 MONTHS	2	3.5%	92.9%
49-60 MONTHS	3	5.3%	98.2%
61-72 MONTHS	1	1.8%	100.0%
TOTAL	57	100.0%	100.0%

13. DISPOSITIONS FOR THOSE CHARGED WITH FELONY MOTOR VEHICLE HOMICIDE

Of the ten offenders charged with felony motor vehicle homicide, six were found guilty and one was found not guilty. Three cases were still pending as of 1/16/86.

All six of the offenders found guilty received some form of incarceration. Four of the incarcerated offenders had received split sentences.

Two of the offenders receiving a split sentence and one offender who received a straight incarceration disposition had their original charge of felony motor vehicle homicide reduced to the misdemeanor charge.

The dispositional lengths for the offenders convicted of felony motor vehicle homicide exceeded 2½ years (30 months) and appears to fall within the context of M.G.L. Chapter 90, Section 24Ga.

This data suggests that the incarceration level since the enactment of the 1982 drunk driving legislation is high, however, it is important to keep in mind that these numbers are low and therefore statistically insignificant.

TABLE 13: DISPOSITIONS FOR THOSE CHARGED WITH FELONY MOTOR VEHICLE HOMICIDE

<u>DISPOSITION</u>	<u>NUMBER</u>	<u>PERCENT</u>
INCARCERATION	2	40.0%
SPLIT SENTENCE	4	60.0%
TOTAL	6	100.0%

14. DISPOSITIONS FOR THOSE SIMULTANEOUSLY CHARGED WITH DRIVING UNDER THE INFLUENCE (DUIL)

Over eighty-five percent (n=48) of the 66 offenders simultaneously charged with driving under the influence of an intoxicating substance were found guilty.

Seventy-three percent (n=35) of the convicted offenders received dispositions of incarceration. Almost 46% (n=16) of the incarcerated offenders received a split sentence.

Over eighteen percent (n=9) of the offenders received a suspended sentence and 8.3% (n=4) received probation. One offender's case was continued with a finding for six years. Eleven offenders simultaneously charged with driving under the influence had cases pending as of 1/16/86.

TABLE 14: DISPOSITIONS FOR THOSE SIMULTANEOUSLY CHARGED WITH DWI

<u>DISPOSITION</u>	<u>NUMBER</u>	<u>PERCENT</u>
INCARCERATION	19	39.6%
SPLIT SENTENCE	16	33.3%
SUSPENDED SENTENCE	9	18.8%
PROBATION	4	8.3%
TOTAL	48	100.0%

15. PRIOR CHARGES/CONVICTIONS FOR MAJOR MOTOR VEHICLE OFFENSES

The criminal histories of the offenders in our study were examined for the presence of specific major motor vehicle offenses in an attempt to identify correlations between the prior offenses and the target offense, motor vehicle homicide. Any significant correlation drawn between the two would suggest the validity of that prior offense as a possible risk predictor in determining the likelihood of a particular individual being arraigned for motor vehicle homicide at some future point in time.

The list of major motor vehicle offenses that were used in this study can be found in Appendix A.

More than a third (38.6%, n=73) of the offenders in our study had been charged with at least one major motor vehicle offense prior to the arraignment date of the motor vehicle homicide charge. This is significant for it suggests that some of the motor vehicle accidents which resulted in fatalities, examined within our study, may have been the result of a determined pattern of careless and reckless motor vehicle operation.

Table 15 examines the frequency of prior major motor vehicle offenses for all offenders with at least one prior major motor vehicle offense. Slightly more than 50% of this group had 2 or more prior major motor vehicle offenses, with one offender having been arraigned for fifteen prior offenses. The last column of Table 15 depicts the number of convictions sustained from the major motor vehicle charges. Although there is some decline from the number of charges, the data still supports the contention that the major motor vehicle offense can be used as a risk predictor for the motor vehicle homicide offender; over one quarter (27%, n=51) of the offenders in our study who had been arraigned for motor vehicle homicide had been convicted of at least one major motor vehicle offense prior to the homicide arraignment.

TABLE 15: PRIOR CHARGES/CONVICTIONS FOR MAJOR MOTOR VEHICLE OFFENSES

<u>NUMBER OF OFFENSES</u>	<u>CHARGES</u>		<u>CONVICTIONS</u>	
	<u>#</u>	<u>%</u>	<u>#</u>	<u>%</u>
1	16	21.9%	23	45.1%
2	21	28.8%	14	27.5%
3	9	12.3%	4	7.8%
4	12	16.4%	1	2.0%
5	1	1.4%	3	5.9%
6	4	5.5%	2	3.9%
7	7	9.6%	3	5.9%
9	1	1.4%	0	0.0%
10	1	1.4%	1	2.0%
15	1	1.4%	0	0.0%
TOTAL	73	100.0%	51	100.0%

16. PRIOR CHARGES/CONVICTIONS FOR OPERATING TO ENDANGER

Table 16 depicts the number of prior operating to endanger charges and convictions for the offenders in our study. Slightly more than one fifth of the offenders had a prior operating to endanger charge on their criminal record (23.2%, n=44). Of this group, 43% (n=19) were convicted. This means that slightly more than 10% of the offenders in our study had been convicted of a least one operating to endanger charge prior to being arraigned for motor vehicle homicide.

TABLE 16: PRIOR CHARGES/CONVICTIONS FOR OPERATING TO ENDANGER

<u>NUMBER OF OFFENSES</u>	<u>CHARGES</u>		<u>CONVICTIONS</u>	
	<u>#</u>	<u>%</u>	<u>#</u>	<u>%</u>
1	32	72.7%	13	68.4%
2	10	22.7%	4	21.1%
3	1	2.3%	1	5.2%
4	1	2.3%	1	5.2%
TOTAL	44	100.0%	19	100.0%

17. PRIOR CHARGES/CONVICTIONS FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL

Of the 189 offenders, over 24% (n=46) had prior charges for driving under the influence of alcohol. The number of prior offenses for driving under the influence ranged from one to four. Of these 46 offenders, 69% (n=32) had one prior offense, 17% (n=8) had 2 prior offenses, 11% (n=5) had 3 prior offenses, and 2% (n=1) had 4 prior offenses.

The total number of offenders with prior convictions was 24, which is almost 50% of those charged. Eighty-three percent (n=20) had a least one prior conviction, 8% (n=2) had 2 prior convictions, and 8% (n=2) also had 3 prior convictions. There were no offenders convicted of 4 prior offenses.

The results of this data analysis suggest that driving under the influence of alcohol may be a major risk predictor for motor vehicle homicide. This data complements the research mentioned in the literature review.

TABLE 17: PRIOR CHARGES/CONVICTIONS FOR DRIVING UNDER THE INFLUENCE OF LIQUOR

<u>NUMBER OF OFFENSES</u>	<u>CHARGES</u>		<u>CONVICTIONS</u>	
	<u>#</u>	<u>%</u>	<u>#</u>	<u>%</u>
1	33	71.7%	20	83.3%
2	8	17.4%	2	8.3%
3	4	8.7%	2	8.3%
4	1	2.2%	0	0.0%
	<hr/>	<hr/>	<hr/>	<hr/>
	46	100.0%	24	100.0%

18. PRIOR CHARGES/CONVICTIONS FOR LEAVING THE SCENE OF PROPERTY DAMAGE.

Of the 189 offenders studied, there were 16 people (8.4%) previously charged with the offense of leaving the scene of property damage; 75% (n=12) were charged with 1 prior offense, 18.8% (n=3) were charged with 2 prior offenses, and 6.2% (n=1) were charged with 3 prior cases of leaving the scene of property damage.

The total number of offenders convicted of leaving the scene of property damage was 6, which is 37.5% of the offenders charged. Almost 67% (n=4) of those convicted had 1 prior offense, 16.7% (n=1) were responsible for 2 prior offenses, and 16.7% (n=1) were convicted of 3 offenses. Table 16 examines this data.

The results of this data analysis suggests that the offense of leaving the scene of property damage may not be a major risk predictor for motor vehicle homicide, but instead, the results may just be indicative of poor driving habits.

TABLE 16: PRIOR CHARGES/CONVICTIONS FOR LEAVING THE SCENE OF PROPERTY DAMAGE

<u>NUMBER OF OFFENSES</u>	<u>CHARGES</u>		<u>CONVICTIONS</u>	
	<u>#</u>	<u>%</u>	<u>#</u>	<u>%</u>
1	12	75.0%	4	66.7%
2	3	18.8%	1	16.7%
3	1	6.2%	1	16.7%
TOTAL	16	100.0%	6	100.0%

19. PRIOR CHARGES/CONVICTIONS FOR LEAVING THE SCENE OF PERSONAL INJURY

Of the 189 cases examined in this study, two offenders had a prior history of leaving the scene of personal injury. There were no convictions. These results suggest that leaving the scene of personal injury is not a major risk predictor for motor vehicle homicide.

According to Massachusetts General Laws, Chapter 90, section 24G:

Elements of crime of leaving scene after causing personal injury and leaving scene after causing property damage were not common to vehicular homicide...but if defendant was adjudicated guilty of vehicular homicide, bench trial judge and jury of six on appeal in their discretion could give consideration to sentence already served on complaint of leaving scene after causing personal injury.

This statement complements the research gathered in this study.

V. CONCLUSION

Offenders charged with motor vehicle homicide in the Commonwealth of Massachusetts were typically young males. Almost 92% (n=173) of the 189 offenders studied were male. More than 38% (n=73) of the offenders in the study had been charged with at least one major motor vehicle offense prior to committing motor vehicle homicide.

These statistics may be indicative of poor driving habits. With respect to driving under the influence of alcohol (DUIL), 24% of the 189 offenders had at least one prior DUIL charge. Almost 50% of those charged with DUIL prior to their motor vehicle homicide offense were convicted of motor vehicle homicide. These statistics reflect carelessness and irresponsibility in the operation of a motor vehicle.

The vast majority of motor vehicle homicide offenders, 82.5% (n=156), were simultaneously charged with at least one other offense. Of these, almost 73% (n=113) of the offenders were simultaneously charged with operating to endanger, and over 43% (n=68) were charged with driving under the influence. Again, these statistics indicate poor driving habits as well as careless and irresponsible use of alcohol.

In terms of case management, almost 72% (n=115) of the cases reached a disposition within at least 6 months. More than 12% (n=24) of the cases were pending as of January 16, 1986.

Of the 165 cases that received findings, almost 75% (n=133) were convicted. Over 53% of the offenders convicted received some form of incarceration. Almost Twenty-five percent (n=33) received straight incarceration terms while over 28% (n=38) received split sentences. The remaining 47% of the offenders in our study received mostly suspended sentences or probation. The length of dispositions ranged from one month to 20 years.

Over 75% of the 189 cases examined (n=142) originated in Eastern Massachusetts (Essex, Middlesex, Suffolk, Norfolk, Bristol, Plymouth, and Barnstable Counties). The highest concentration of motor vehicle homicide offenses occurred in Middlesex (20%, n=38) and Norfolk (15.9%, n=30) Counties.

As a result of the legislative enactment, Chapter 373 of the Acts of 1982, attacking drunk driving, motor vehicle homicide became a felony if the operator was both driving under the influence and operating to endanger. Ten offenders in this study were charged with the felony motor vehicle homicide as a result of the enactment of Chapter 373.

The findings in this study reveal that the majority of motor vehicle homicide cases were associated with operating to endanger and thus indicative of poor driving habits. Alcohol involvement is also a very important factor in motor vehicle homicide cases because it suggests that alcohol and negligence go hand in hand.

APPENDIX I - MAJOR VEHICLE OFFENSES

OPERATING RECKLESSLY	(110A)
OPERATING UNDER THE INFLUENCE OF LIQUOR	(111A)
OPERATING UNDER THE INFLUENCE OF DRUGS	(111B)
OPERATING SO AS TO ENDANGER LIVES AND SAFETY	(112A)
DRINKING WHILE DRIVING	(111D)
GOING AWAY AFTER CAUSING PROPERTY DAMAGE	(113A)
GOING AWAY AFTER CAUSING PERSONAL INJURY	(113B)
USE WITHOUT AUTHORITY-LICENSE REVOCATION OR SUSPENSION	(114A)
AFTER LICENSE HAS BEEN SUSPENDED OR REVOKED	(114B)
OPERATING OR PERMITTING OPERATION AFTER SUSPENSION OR REVOCATION OF LICENSE	(114C)
FALSE STATEMENT ON APPLICATION	(114G)
IMPERSONATING OR PROCURING FALSE IMPERSONATION	(114H)
LOANING LICENSE	(114I)
ALTERING LICENSE OR REGISTRATION	(114M)
COUNTERFEITING A LICENSE, REGISTRATION, OR INSPECTION STICKER	(114N)
RACING UPON A BET OR WAGER	(115S)
RACING FOR PURPOSE OF MAKING A RECORD	(116C)
VIOLATION OF COMPULSORY INSURANCE LAW	(118A)

APPENDIX I - MAJOR VEHICLE OFFENSES cont.

REMOVING OR DEFACING ENGINE OR SERIAL NUMBER (122A)

BY LICENSED CHAUFFEUR, FOR VIOLATION OF
MOTOR VEHICLE LAW BY UNLICENSED PERSON (123F)

OWNER OR UNLICENSED OPERATOR, FOR VIOLATION OF (123G)
RULES BY UNLICENSED PERSON WHOM HE
ACCOMPANIES

ATTACHING WRONG PLATES (124P)

POSSESSION MASTER KEYS (124O)

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